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## FISCAL IMPACT REPORT

SPONSOR Ortiz y Pino DATE TYPED 2/27/05 HB \_\_\_\_\_

SHORT TITLE Bittering Agent in Antifreeze SB 497/aSPAC/aSCORC

ANALYST Wilson

### APPROPRIATION

| Appropriation Contained |      | Estimated Additional Impact |               | Recurring or Non-Rec | Fund Affected |
|-------------------------|------|-----------------------------|---------------|----------------------|---------------|
| FY05                    | FY06 | FY05                        | FY06          |                      |               |
|                         |      |                             | See Narrative |                      |               |

Relates to HB 482

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Environment Department (ED)

Department of Agriculture (DOA)

Administrative Office of the Courts (AOC)

### SUMMARY

#### Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment to SB 497 clarifies that a person who violates the provisions in this bill shall be guilty of a petty misdemeanor and shall be sentenced in accordance with the appropriate existing statute.

The requirements of this bill apply only to manufacturers, packagers, distributors, recyclers or sellers of engine coolant or antifreeze.

The amendment also gives enforcement authority to the New Mexico Department of Agriculture.

#### Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment to SB 497 adds that a person who violates the provisions in this bill shall be guilty of a petty misdemeanor.

### Synopsis of Original Bill

Senate Bill 497 will require the addition of denatonium benzoate to antifreeze as a bittering agent to discourage ingestion. Concentrations of 30 parts per million are considered adequate to make it unpalatable.

### Significant Issues

Pets, especially dogs, are enticed to drink spilled or abandoned antifreeze because of its sweet taste. Animals have also been deliberately poisoned with antifreeze. Children may be similarly enticed. With the addition of a bittering agent, such as denatonium benzoate, proponents believe fewer lives would be lost.

Denatonium benzoate additive is not a hazardous substance; therefore it would not be a hazardous waste when discarded. Likewise, antifreeze with ethylene glycol is not considered a hazardous substance. It only becomes a hazardous waste when discarded if it has accumulated hazardous metals such as cadmium, chromium or lead during its operational lifetime.

The DOA notes that when requiring the addition of a compound to any product, the risk is always present that it will change other specifications of the substance. It is highly unlikely that any compound introduced at the exceedingly small level of 30 parts per million, will negatively affect any other antifreeze specification. The allowance of other “aversive agents” does however open the door for compounds or quantities that could negatively affect overall product specifications. Only antifreeze manufacturers can make the determination as to what level of other “aversive agents” would negatively affect overall specification.

The American Medical Association, the National Safety Council, the American Academy of Veterinary and Comparative Toxicology, and the American Journal of Public Health have all adopted resolutions or policy statements supporting the inclusion of a bittering agent in hazardous products.

### **FISCAL IMPLICATIONS**

If a state agency is going to be responsible for testing for the presence of these compounds, instrumentation must be acquired to perform the analyses. Oregon and California have researched this problem, and have concluded that use of a high performance liquid chromatograph, mass spectrometer is the best, if not only satisfactory way to test for denatonium benzoate at this level. The approximate cost for one of these instruments is \$100.0 thousand.

### **ADMINISTRATIVE IMPLICATIONS**

The bill does not identify the state agency responsible for testing the product. This agency will acquire additional duties.

### **RELATIONSHIP**

There is considerable overlap between HB 482 and SB 497. While both bills require the introduction of a bittering agent in antifreeze, SB497 expands the introduction to all engine coolants. SB 497 allows for alternatives to denatonium benzoate, but HB 482 does not.

SB 497 prohibits local governments from continuing any prohibitions they may have in effect for retail (i.e., less than 55-gallon) containers of coolant that are different from the provision in the bill, but HB 482 does not.

Finally, SB 497 does not require labeling of commercial containers of bittered coolants. HB 482 does, and requires that such labeling be in English and Spanish.

### **OTHER SUBSTANTIVE ISSUES**

The Petroleum Products Standards Act, Chapter 57, Article 19, Sections 25 through 37 NMSA 1978, establishes standards for petroleum products in New Mexico. By definition, antifreeze is considered a petroleum product and is therefore regulated under the act. Section 57-19-29 Quality Standards, requires petroleum products to meet the most current specifications established by the American Society for Testing and Materials (ASTM), therefore antifreeze must comply with the requirements set forth in ASTM D 3306, Standard Specification for Ethylene Glycol base Engine Coolant for Automobile and Light Duty Service.

### **ALTERNATIVES**

The DOA suggests the following:

Insert language in the bill, which clearly states the addition of any bittering agent shall not change the specification for ethylene glycol-based antifreeze as established in the most current edition of ASTM D 3306, Standard Specification for Ethylene Glycol base Engine Coolant for Automobile and Light Duty Service. This will allow for the introduction of sufficient bittering agent to make the product unpalatable, without changing the performance specifications of the product.

DW/rs